



THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Ding *et al.*

Appl. No.: 10/538,997

371(c) Date: February 8, 2006

For: N-(Substituted Arylmethyl)-4-  
(Disubstituted Methyl)Piperidines  
and Piperazines

Confirmation No.: 9442

Art Unit: 1626

Examiner: Chu, Yong Liang

Atty. Docket: 2400.1070003/JMC/VLC/CMB

**Reply to Restriction Requirement**

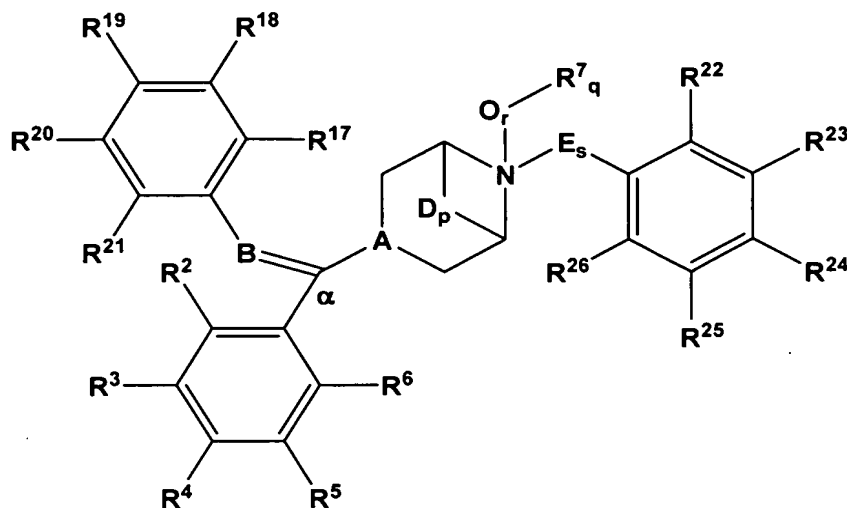
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated July 27, 2006, requesting an election of one invention to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the invention of Group I, represented by claims 1-45 directed to a compound or a composition containing an insecticidally effective amount of a compound of Formula I according to claim 1.

The Office has also required Applicant to elect a single species for search purposes. Applicants provisionally elect compound 149 in Table I, N-[1-aza-2-(1-{[4-(2-ethyl(1,2,3,4-tetraazol-5-yl))phenyl]methyl}(4-piperidyl))-2-[4-(trifluoromethoxy)phenyl]vinyl][4-(trifluoromethoxy)phenyl]carboxamide (Example 2).

The structure of compound 149 is:



where A is CH, forming a piperidine ring, B is  $\text{NNR}^{15}\text{C}(=\text{O})$ , and  $\text{R}^{15}$  is H; p, q, and r are 0, s is 1, E is  $-(\text{C}^{27}\text{R}^{28})_x-(\text{CR}^{29}\text{R}^{30})_y-$ , where x is 1 and y is 0;  $\text{R}^2, \text{R}^3, \text{R}^5, \text{R}^6, \text{R}^{17}, \text{R}^{18}, \text{R}^{20}, \text{R}^{21}, \text{R}^{22}, \text{R}^{23}, \text{R}^{25}, \text{R}^{26}, \text{R}^{27}$  and  $\text{R}^{28}$  are hydrogen,  $\text{R}^4$  is  $\text{OCF}_3$ ,  $\text{R}^{19}$  is  $\text{OCF}_3$ ,  $\text{R}^{24}$  is 2-ethyl-2H-tetrazol-5-yl.

This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made **with** traverse.

This application is a National Phase Entry Under 35 U.S.C. § 371 and, as such, PCT Rule 13 requiring unity of invention applies. Title 37 of the Code of Federal Regulations states:

(b) An international or a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn only to one of the following combinations of categories:

(1) A product and a process specially adapted for the manufacture of said product; or

***(2) A product and a process of use of said product;***

37 C.F.R. § 1.475 (b)(1)(2).

The claims of Group I identified by the Office are directed to products, i.e., the compounds and compositions of claims 1-45. The claims of Group II identified by the Office are directed to processes of use of the product, i.e., a method of controlling insects comprising applying an insecticidally effective amount of a composition of claims 16-44 to a locus where insects are present or expected to be present. Groups I and II therefore are related as products and processes for using such products, respectively. As noted, 37 C.F.R. § 1.475 (b)(2) states that a national stage application containing claims to a product and a process of use of said product will be considered to have unity of invention. Applicants therefore respectfully assert that the Groups I and II share unity of invention and the Restriction Requirement is improper.

Reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents.

However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Cynthia M. Bouchez  
Attorney for Applicants  
Registration No. 47,438

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1100 New York Avenue, N.W.  
Washington, D.C. 20005-3934  
(202) 371-2600